IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

CRP.No. 542 of 2005()

OPELE.241/2000 of ADDL. DISTRICT COURT, THODUPUZHA
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REVN. PETITIONER/RESPONDENT IN O.P.

THE KERALA STATE ELECTRICITY BOARD,
REP. BY ITS CHAIRMAN, VYDYUTHI BHAVAN,
THIRUVANANTHAPURAM.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

RESPONDENT/PETITIONER IN O.P.

VIJAYAN, S/O. KUNJAN, URULEL HOUSE,
KONNATHADY KARA, KONNATHADY VILLAGE,
IDUKKI DISTRICT.

BY ADV. SRI.C.K.VIDYASAGAR
SRI.P.CHANDY JOSEPH

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 01/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

PIUS.C.KURIAKOSE, J.

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C.R.P.No. 542 of 2005

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Dated this the 1st day of August, 2007

ORDER

In this civil revision petition under Section 115 of the Civil Procedure Code, the Kerala Electricity Board challenges the award of enhanced compensation of Rs. 11,496/- with interest, for the damages caused to the respondent on account of the cutting and removal of tress and improvements from his property for the purpose of drawal of Koothumkal-Panamkutty 110KV electricity line. According to the petitioner-Board, the court below went wrong in directing payment of additional compensation notwithstanding the absence of any reliable evidence to justify the same. The court below also went wrong in applying the principles laid down in Kumba v. KSEB (2000 (1) KLT 542). The court below went wrong also in awarding interest sine there is no provision for award of interest of compensation for tree cutting.

I have heard the submissions of Sri.C.K.Karunakaran, learned standing counsel for the KSEB and those of Sri.C.K.Vidhyasagar,

learned counsel for the respondent. Even though Sri.C.K.Karunakaran addressed me strenuously on the various grounds raised in the civil revision petition, I find that the court below has determined the compensation applying the correct parameters and that the approach of the learned District Judge was very reasonable. After all in civil cases, courts do not insist on absolute proof and decision rests on preponderance of probability. The compensation awarded cannot be said to be on the high side. The judgment of the Full Bench was binding on the District Judge and had to be followed. Generation and supply of electricity , though is a public utility service rendered by the KSEB, it should not be forgotten that the KSEB is collecting charges from the consumers and if charges are not paid on the due date, KSEB is collecting interest and that too penal interest. There is element of commerciality in KSEB's activities and the KSEB is not justified in challenging the award of interest by the court below. The result is that the challenge against the impugned order fails and the Civil Revision Petition will stand dismissed.

PIUS.C.KURIAKOSE
JUDGE

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